

## **NEWS FROM ST. JAMES ANGLICAN CHURCH**

### **FOR IMMEDIATE RELEASE**

#### **ST. JAMES CHURCH PREVAILS ON TWO MOTIONS BROUGHT BY THE EPISCOPAL DIOCESE OF LOS ANGELES AND THE EPISCOPAL CHURCH SEEKING TO END THE CASE IN THEIR FAVOR**

**SANTA ANA, Calif. – July 15, 2009** – On July 13 St. James Church won a significant legal battle in its property rights case in Orange County Superior Court when Judge Thierry P. Colaw denied two motions brought by the Episcopal Diocese of Los Angeles and The Episcopal Church which sought to end the case in their favor.

The Diocese brought a demurrer — a formal objection to an opponent’s pleadings — to the St. James cross-complaint, arguing that the California Supreme Court’s February 2009 decision definitively awarded St. James’s property to the Diocese. The Diocese also argued that a Diocesan-issued 1991 letter waiving the Diocese’s trust interest over the property on 32nd Street had already been addressed in favor of the Diocese by the California Supreme Court. Attorneys for The Episcopal Church brought a similar motion, arguing that they prevailed on their complaint on similar grounds. The Episcopal parties made these arguments even though the case went up on appeal before the St. James defendants ever answered the Episcopal complaints or brought affirmative defenses.

Judge Colaw sided with arguments made by St. James’s attorneys on all counts, and rejected the Episcopal parties’ attempt to deny the St. James defendants of due process and to avoid the promises made by the Diocese to St. James in the 1991 letter. Both motions were argued before the Court on July 2.

St. James Church filed a petition for writ of certiorari on June 24, 2009, with the Supreme Court of the United States. St. James is asking the Court to overturn the California Supreme Court’s decision, which purports to confer a special power on certain religious denominations to take property they do not own simply by passing an internal “rule.” The petition asks the Supreme Court to decide whether, under the U.S. Constitution, certain religious denominations can disregard the normal rules of property ownership that apply to everyone else.

Dr. John Eastman, a nationally recognized constitutional law scholar, has joined the legal team to pursue the appeal to the U.S. Supreme Court. A response from the Court regarding the St. James petition can be expected as early as October 2009. A decision could be reached as early as mid-2010.

The next O.C. Superior Court hearing in this case will be on August 21, when the Court will hear two defense motions seeking to dismiss the Revs. Richard Menees and Kathleen Adams and the 2004 volunteer board members from the case, all of whom were sued by the Episcopal Diocese of Los Angeles even though the St. James corporation owns the property in dispute.

A copy of Judge Colaw’s order may be found at [www.steadfastinfaith.org](http://www.steadfastinfaith.org)

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### **A Brief Recap: St. James Anglican Church’s Fight to Keep its Property**

**In August 2004** St. James Church ended its affiliation with the Episcopal Diocese of Los Angeles and the Episcopal Church over theological differences involving the authority of Holy Scripture and the

Lordship of Jesus Christ. The Episcopal Diocese of Los Angeles brought lawsuits against St. James Church, All Saints Church, Long Beach, CA, and St. David's Church, No. Hollywood, CA, and their volunteer board members in September of 2004. Subsequently, the national Episcopal Church intervened into the lawsuits against the three local church corporations and their volunteer board members.

**In August 2005** the Honorable David C. Velasquez of the Orange County Superior Court ruled in favor of St. James Church and struck the complaint brought by the Diocese of Los Angeles. In October 2005 Judge Velasquez issued a similar ruling in favor of All Saints and St. David's Churches. These early victories arose from early challenges to the two complaints filed by the Diocese and the Episcopal Church, and as a result, no trial ever occurred. The Episcopalians then appealed to the California Court of Appeal sitting in Orange County on this very limited court record, arguing that under neutral principles of law they had a probability of prevailing and had alleged legally viable claims.

**In July 2007** the Court of Appeal rejected nearly thirty years of California church property law by ruling that a secular court must defer to the determinations of the highest level of the church hierarchy regarding ownership of local church property, regardless of any agreements between the parties, the corporate documents, who paid for the property, or who held the deed. The Court of Appeal reversed the trial court judgment in favor of St. James, and ordered the case back to the trial court.

**In August 2007** St. James filed a petition with the California Supreme Court, which the Court unanimously and quickly accepted under the name of *Episcopal Church Cases*. The Court heard oral argument in the case in October 2008.

**In January 2009** the California Supreme Court ruled in *Episcopal Church Cases* that church property disputes in California must be resolved by neutral or non-religious principles of law, not by civil courts merely deferring to the decrees of church "hierarchies" or larger church bodies. As a result, every church property dispute in California now will be resolved based on non-religious factors that are unique to the dispute. While adopting this non-religious method of resolving property disputes between churches, however, the Court seemed to defer to the Episcopal Church's alleged "trust canon," which purports to create a trust interest in church property owned by local congregations. The Court made its ruling despite the fact that St. James purchased and maintained its property with its own funds and has held clear record title to its property for over fifty years. St. James believes that this ruling overlooked decades of trust law in California that only allows the owner of property to create a trust in favor of someone else, and will as a result have wide impact for local church property owners throughout California that seek to change their religious affiliation.

**In late January 2009** St. James formally asked the California Supreme Court to modify its January decision.

**In February 2009** the California Supreme Court granted the St. James request, and modified its decision to confirm both that the suit against St. James is not over and that no decision on the merits of the case has yet been made. Instead, the Court clarified that its decision was only based on the limited record before it, which will now be augmented through the normal discovery and trial process.

**In late February 2009**, the case against St. James Church corporation, the volunteer board members, and clergy returned to the trial court in Orange County where St. James can assert factual and legal arguments that were not addressed on appeal through discovery, depositions, motions, and trial. Using the legal standard set forth by the California Supreme Court, the Orange County Superior Court will eventually decide the merits of this dispute. For example, St. James has brought a complaint against the

Diocese of Los Angeles based on a 1991 written promise that it would not claim a trust over the property of St. James on 32<sup>nd</sup> Street in Newport Beach.

**On June 24, 2009**, St. James filed a petition for a writ of certiorari with the United States Supreme Court. A response from the Court regarding its decision to hear St. James's petition can be expected by October 2009. If the Court takes the case, a decision would be rendered by mid-2010.

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